HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No.23277 OF 2006

Between:

The NGO's House Building Society
Limited, Mahabubnagar, rep., by its
President K. Galenna Goud

…Petitioner

AND

Sri P. Ramulu and another

...Respondents

: O R D E R :

Counsel for the Petitioner : Shri K.Venkatesh Gupta
for
Shri M.A. Ashfaq
Mohiuddin

Counsel for Respondent No.1 : Shri M. Damodar Reddy

15th December, 2006

Per G.S.SINGHVI, C.J.

This petition is directed against order dated 24-4-2006 passed by Andhra Pradesh Consumers Disputes Redressal Commission (for short, 'the Commission') in F.A.No.903 of 2004.

Respondent No.1 filed a complaint under Section 12 of the Consumer Protection Act, 1986 (for short, 'the Act') before the District Consumer Forum, Mahbubnagar (for short, 'the District Forum') alleging therein that he was a member of NGO's House Building Co-operative Society Limited, Mahbubnagar (the petitioner herein); that he was allotted Plot No.195, MIG; that as per the direction of the President of the Society, he paid the cost of the plot in different instalments; that the draw of lots was treated as first phase for the purpose of obtaining loans on the respective plots from the Housing Board, but the petitioner did not execute the sale deed on the pretext that the land owners had approached the civil court, and the court directed to keep the first phase of allotment in abeyance; that he protested against the action of the society and asked it to execute registered sale deed in respect of Plot No.195 MIG, and that in the meanwhile, a new body was elected and the new body did not give him the plot.

In the counter filed by the petitioner, it was averred that the plot allotted to the complainant was under litigation and, as such, the same could not be registered. The petitioner also questioned the jurisdiction of the District Forum to entertain the complaint by contending that the complainant has got an effective remedy under Section 61 of the Andhra Pradesh Co-operative Societies Act, 1964 (for short, 'the 1964 Act').

After considering the pleadings of the parties and the evidence produced by the complainant (respondent No.1 herein), the District Forum passed order dated 6-2-2004 and dismissed the complaint as

not maintainable. The appeal preferred by respondent No.1 against the order of the District Forum was allowed by the State Commission vide its order dated 24-4-2006. The State Commission relied on the judgment of the Supreme Court in **Secretary, Thirumurugan Co-operative Agricultural Credit Society v. M.Lalitha**[1] and held that the complaint filed by respondent No.1 was maintainable. After recording this conclusion, the State Commission straightaway directed the petitioner to allot a plot to respondent No.1 within a period of six weeks.

The petitioner has challenged the order of the State Commission on several grounds including the one that the District Forum and the State Commission do not have the jurisdiction to entertain the complaint filed by respondent No.1 and the only remedy available to him is to file an application under Section 61 of the 1964 Act. It has been further pleaded that the State Commission committed a serious error by directing the petitioner to allot a plot to respondent No.1 ignoring the fact that the land was subject matter of litigation pending before the civil court.

We have heard learned counsel for the parties and perused the record. In our opinion, it is not necessary to adjudicate on the petitioner's objection to the maintainability of the complaint filed by respondent No.1 because we are convinced that the order under challenge is liable to be set aside only on the ground that while directing the petitioner to allot plot to respondent No.1, the State Commission has not at all adjudicated on the merits of the latter's claim and has not assigned any reason whatsoever for entertaining the same. As a matter of fact, learned counsel appearing for respondent No.1 fairly conceded that the order of the State Commission is reasonless and does not satisfy the requirement of a speaking order.

In view of the above, the writ petition is allowed. The order of the State Commission is set aside and the matter is remitted to the District

Forum for adjudication of the complaint of respondent No.1 on merits. The parties are directed to appear before the District Forum on January 19, 2006.

As a sequel to allowing the writ petition, WPMP.No.29645 of 2006 filed by the petitioner for interim relief is disposed of as infructuous.

G.S.SINGHVI, C.J.

December 15, 2006.

C.V.NAGARJUNA REDDY, J.

ks

---

[1] 2004 CPJ 1 (SC)